

REMARKS

Claims 1-14 in this continuation application were previously rejected in the prior application for obviousness-type double patenting as being unpatentable variously over claims of U.S. Patent Nos. 5,211,683 and 5,571,167 and 5,304,220 and 5,749,375, which all variously derive priority from U.S. Patent No. 5,211,683.

The assignee of the entire interests in the subject application and in the Patents Nos. 5,211,683; 5,749,375; 5,304,220; and 5,571,167 upon which double patenting rejections were previously based, is filing a Terminal Disclaimer herewith with respect to claims 1-14 to obviate such bases for rejection of these claims.

The subject matter of the claims 1-14 herein was previously set forth in claims 51-60 and 62-66 of the prior application that were variously rejected based upon Kelsey '612, Montanti '408, Ablaza '909, the Salky et al. article and the Lumley article. Copies of these references are cited on the attached Information Disclosure Statement and Form PTO SB08A, and are enclosed herewith for the Examiner's convenience.

Claims 1-14 presented herein now more specifically distinguish the invention over the references listed above which contain deficient disclosures, as follows:

Kensey '612 merely pertains to plugging or sealing a puncture or incision in a vessel, and offers no hint or suggestion of any anastomosis procedure. As that term is commonly used in medical parlance, it is submitted that the recited "anastomosis" is a surgical joining or connecting of vessels for flow therethrough, as distinguished from merely plugging or sealing a puncture or incision. This reference merely discloses intravascular surgical procedures requiring entry into a vessel (perhaps percutaneously), and subsequent *sealing* of an incision or puncture in a vessel wall. Such procedures are clearly distinguishable from joining or connecting vessels for flow through (rather than sealing of) a puncture or incision in the manner as claimed by applicant. At best, a sheath or catheter in this reference that is *capable* of carrying blood, does not establish a claimed anastomosis of the vessel where such sheath or catheter has only a temporary presence in the puncture during the surgical procedure to seal the puncture.

The Lumley article merely describes surgical procedures for installing a trouser graft between the infrarenal aorta and the common femoral arteries. Any arms of this graft suitable for anastomosing to the femoral arteries do not extend from the end of the graft through the arteriotomy into the blood vessel, in the manner as claimed by applicant. If the procedures of the Lumley article can even be considered to be an arteriotomy for attachment of a graft, this reference is nevertheless deficient of disclosure of arms extending through the arteriotomy

back into the blood vessel to which the graft is attached, in the manner as claimed by applicant.

Montanti '408 discloses balloon collars to seal the bypass conduit within the same arterial apertures through which the conduit is installed. There is no suggestion here of introducing an expandable stent intravascularly from another, remote location in the manner as claimed by applicant.

Ablaza '909 controls an aneurysm by inserting a blood-conveying conduit within the blood vessel to sustain blood flow only therethrough past the aneurysm, and not outside of the blood vessel in a direction away from an anastomosis (i.e., joining or connecting) of the blood vessel with a conduit outside the blood vessel, in the manner as claimed by applicant.

The Salky et al. article is understood to focus light and vision on biliary-tract operations. Thus, this reference alone or in combination with other of the references applied in the prior application fails to yield or even suggest applicant's claimed invention for forming an anastomosis of a blood-flow conduit with a blood vessel.

Support in the original disclosure for revisions in claims 1-14 over corresponding claims of the prior application may be identified (M.P.E.P. §2163.) as follows:

Claims 1, 4 variously recite:

-- to provide blood flow in the blood-conveying
conduit outside of the blood vessel and away from
the selected location;--

Support for the added limitation is found, for example, in Figures 16-24, 32,
33 and at page 20, lines 16-24.

Claims 5, 7, 9 variously recite:

--connecting a blood-conveying conduit to an
aorta,--or creating an arteriotomy in the aorta--.

Support for these added limitations are found, for example, in Figures 7, 8,
12-15, and at page 17, lines 18-25.

Claim 11 recites:

--inserting an expandable stent intravascularly
from a location remote from the first aperture--.

Support for the added limitation is found, for example, in Figures 17-24 and
at page 21, lines 1-9.

Claim 14 recites:

--expanding the stent--

Support for the added limitation is found, for example, in Figures 18, 19A and at page 21, lines 6-9.

Favorable action on claims 1-14 is solicited.

Respectfully submitted,
THOMAS J. MAGINOT

Dated: 12/2/03 By: A-C. Smith
Albert C. Smith, Reg. No. 20,355
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Telephone (650) 335-7296
Fax (650) 938-5200

ATTACHMENTS:

- Terminal Disclaimer
- Information Disclosure Statement